

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA

Danny Lee Wilkerson,	)	C/A No. 8:10-1248-JFA-JDA
	)	
Plaintiff,	)	
v.	)	ORDER
	)	
Director Ed McCrory; Officer Joe Gladney;	)	
and Nurse Lieutenant Teresa Lawson,	)	
	)	
Defendants.	)	
_____	)	

The *pro se* plaintiff, Danny Lee Wilkerson, brings this action pursuant to 42 U.S.C. § 1983 alleging that his constitutional rights were violated when he was a pretrial detainee in the custody of the Fairfield County Detention Center. Specifically, the plaintiff claims that defendant Gladney assaulted him and that he suffered herniated discs. Plaintiff also contends that defendants McCrory and Lawson's denial of a neck brace for security reasons was a violation of plaintiff's constitutional rights. He seeks money damages in the amount of \$70 million.

The Magistrate Judge assigned to this action<sup>1</sup> has prepared a thorough Report and Recommendation and opines that the motion for summary judgment<sup>2</sup> filed by defendants

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<sup>1</sup> The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b)(1).

<sup>2</sup> An order was issued pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975) notifying plaintiff of the summary dismissal procedure and possible consequences if he failed to adequately respond to the motion for summary judgment. Plaintiff responded to the motion after the court issued an order inquiring

McCrory and Lawson should be granted.<sup>3</sup> The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation.

The plaintiff was advised of his right to file objections to the Report and Recommendation, which was entered on the docket on April 13, 2011. However, the plaintiff failed to file any objections. In the absence of specific objections to the Report of the Magistrate Judge, this court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983).

The Magistrate Judge properly opines that the plaintiff has failed to show that defendants McCrory and Lawson were deliberately indifferent to plaintiff's need for medical care and that plaintiff's medical care was adequate.

Plaintiff's motion for summary judgment contends that these defendants denied him a cervical traction neck brace, in violation of his constitutional rights. However, defendants McCrory and Lawson denied plaintiff the neck brace because it posed a security threat to the plaintiff and other inmates.

The Magistrate Judge also properly concludes that plaintiff's claim against defendant McCrory (regarding the incident with defendant Gladney) based on the theory of supervisory liability fails because there is no doctrine of respondeat superior in § 1983 claims. *Monell v. Dep't of Soc. Servs. of City of New York*, 436 U.S. 658, 691–94 (1978).

Finally, the Magistrate Judge concludes that defendant Gladney, in his response in

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as to whether he wished to continue to prosecute the action.

<sup>3</sup> Defendant Joe Gladney did not file a motion for summary judgment. He did, however, file a response in opposition to the plaintiff's motion for summary judgment.

opposition to plaintiff's motion for summary judgment, has demonstrated that a genuine issue of material fact remains for trial as a result of their competing versions of facts with regard to the alleged use of force by defendant Gladney.

After carefully reviewing the applicable laws, the record in this case, and the Report and Recommendation, this court finds the Magistrate Judge's recommendation fairly and accurately summarizes the facts and applies the correct principles of law. The Report is incorporated herein by reference.

Accordingly, defendant McCrory and Lawson's motion for summary judgment (ECF No. 40) is granted. Plaintiff's motion for summary judgment (ECF No. 39) is denied. This case shall be returned to the Magistrate Judge for further proceedings as to defendant Gadney.

IT IS SO ORDERED.

June 9, 2011  
Columbia, South Carolina



Joseph F. Anderson, Jr.  
United States District Judge